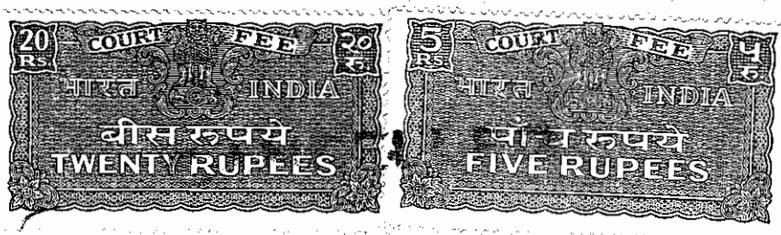

(3)

CR-25

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR.

Writ Petition No. 3531/94.

PETITIONER: Peerandas, s/o Shri Shyamdas Panka, resident of village - Gehardih, tahsil- Baleda bazar, district - Raipur (M.P.)

Versus

RESPONDENTS:

1. Mukhram, s/o Udairam, caste- Satnami, r/o village-Gehardih, tahsil - Baleda bazar, distt. Raipur (M.P.)
2. Board of Revenue, Gwalior. (M.P.)
3. Additional Commissioner, Raipur Division, Raipur (M.P.)
4. Sub-Divisional Officer, Baleda-bazar, District- Raipur (M.P.)
5. Naib-Tahsildar, Baleda-bazar, District-Raipur (M.P.)

WRIT PETITION UNDER ARTICLES 226/227

OF THE CONSTITUTION OF INDIA.

(45)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 3531 of 1994

Petitioner Poorandas

Versus

Respondent Mukhram & others

Single Bench : Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Prakash Tiwari, counsel for the petitioner.

Smt. Kiran Jain, counsel for the respondent No. 1.

Shri V.V.S. Moorthy, Deputy Advocate General with Shri Ajay Dwivedi, Panel lawyer for the respondents/State.

ORAL ORDER

(20th July, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. Learned counsel for the petitioner submits that the petitioner along with the respondent No. 1 and one Shri Dubichand, son of Shri Shyamratan Satnami made an application for appointment on the post of Kotwar, village Baloda Bazar, District Raipur, pursuant to the public announcement.

2. Admittedly, the age of the petitioner on the last date of the application was 19 years, 6 months and 5 days when the condition of eligibility for the post of Kotwar, was that the person should not be below the age of 21 years. The application of the petitioner was rejected and the respondent No. 1 was selected on the post of Kotwar.

3. The Naib-Tahsildar by his order dated 1.1.1992 (Annexure A/1) held that the age of the petitioner on the last date of the application was 19 years, 6 months and 5 days and as such he was not entitled to the appointment on the post of

(46)

Kotwar as per Rule 2 of the Rules Regarding Appointment, Punishment and Removal of Kotwars and their Duties (hereinafter referred to as "Rules"). Therefore, the appointment of the respondent No. 1 was held to be legal and rejection of the petitioner's candidature was held as proper and valid.

4. The Sub Divisional Officer, Baloda Bazar in an appeal filed by the petitioner, wrongly interpreted the provisions of Rules and quashed the order dated 1.1.1992 (Annexure A/1) passed by the Naib-Tahsildar, Baloda Bazar.

5. The respondent No. 1 moved an appeal before the Additional Commissioner, Raipur. The Additional Commissioner, Raipur by his order dated 7th October, 1993 (Annexure A/3) affirmed the order dated 11.1.1993 (Annexure A/2) passed by the Sub Divisional Officer, Baloda Bazar. The Commissioner also ignored the provisions of law completely.

6. The Board of Revenue in Revision filed by the respondent No. 1 rightly held that the petitioner was not of 21 years, which was the requirement of law at the time of making application. Accordingly, the Board of Revenue by order dated 17th February, 1994 set aside the order dated 11.1.1993 (Annexure A/2) passed by the Sub Divisional Officer, Baloda Bazar and order dated 7th October, 1993 (Annexure A/3) passed by the Additional Commissioner, Raipur and restored the order dated 1.1.1992 passed by the Naib-Tahsildar..

7. I have heard learned counsel for the parties and perused the records appended to the petition.

8. Admittedly, the petitioner at the time of making application on the last date of the application was not 21 years but 19 years,

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6 months and 5 days and as such he was not eligible for appointment on the post of Kotwar. Rule 2 of Rules is quoted hereinbelow,

"2. No person shall be eligible for the post of Kotwar, who-

(i) is, in the opinion of the appointing authority, not of good character and antecedents;

(ii) is, in the opinion of the appointing authority, unfit through infirmity of body or mind, to perform the duties of the post;

(iii) is below the age of 21 years;"

On the plain reading of the Rule 2, the order passed by the Revenue Commissioner is valid, lawful and does not suffer from any infirmity or illegality.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu